

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF MARCH 15, 2006**

REGULAR MEETING

9:00 A.M.

MARCH 15, 2006

PRESENT:

COMMISSIONERS:	Paul Biane, Chairman	Dennis Hansberger
	Bob Colven, Vice Chairman	Mark Nuaimi
	Kimberly Cox	Richard P. Pearson
	James V. Curatalo, Alternate	A.R. "Tony" Sedano, Alternate
	Josie Gonzales, Alternate	Diane Williams

STAFF:

Kathleen Rollings-McDonald, Executive Officer
Clark H. Alsop, Legal Counsel
Samuel Martinez, LAFCO Analyst
Michael Tuerpe, LAFCO Analyst
Debby Chamberlin, Clerk to the Commission

ABSENT:

COMMISSIONERS **Paul J. Luellig Jr., Alternate**

9:00 A.M. – CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – Conference Room, LAFCO Staff Office, 175 West Fifth Street, Second Floor, San Bernardino. Personnel (Government Code Section 54957) Employee Evaluation – Executive Officer

ADJOURN TO PUBLIC SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – Civic Center Hearing Chambers, 175 West Fifth Street, Second Floor, San Bernardino.

REGULAR SESSION - CALL TO ORDER – 9:16 A.M.

Chairman Biane calls the regular session of the Local Agency Formation Commission to order and he leads the flag salute.

DISCUSSION AND POSSIBLE ACTION RELATED TO EMPLOYEE EVALUATION (EXECUTIVE OFFICER) – APPROVE MERIT INCREASE AND MARKET ADJUSTMENT INCREASE, RETROACTIVE TO JANUARY 1, 2006

Chairman Biane states that a Closed Session was held this morning regarding an evaluation of Executive Officer Kathleen Rollings-McDonald, who he says has been doing a great job, which he also says was "pretty much" the consensus of the Commission. He announces that the action taken in Closed Session is to approve for Ms. McDonald a seven percent (7%) merit salary increase and a three percent (3%) market adjustment increase, retroactive to January 1, 2006.

Chairman Biane requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

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**APPROVAL OF MINUTES FOR REGULAR MEETING OF FEBRUARY 15, 2006 – MINUTES
APPROVED AS PRESENTED**

Chairman Biane calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Pearson moves approval of the minutes as presented, seconded by Commissioner Williams. Chairman Biane calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Pearson, Williams. Noes: None. Abstain: Hansberger and Nuaimi. Absent: None.

CONSENT ITEMS

LAFCO considers the items listed under its consent calendar. Chairman Biane states that the consent calendar consists of: (1) approval of the Executive Officer's expense report; (2) approval of payments as reconciled for the month of February 2006 and noting cash receipts; and (3) consideration of LAFCO 3047-Reorganization Including Annexation to Running Springs Water District and Detachment from County Service Area 38. A Travel Claim and Visa Justification for the Executive Officer's expense report, and staff reports for the reconciled payments and LAFCO 3047 have been prepared and a copy of each is on file in the LAFCO office and is made a part of the record by its reference herein. LAFCO 3047 has been advertised as required by law through publication in The Sun and the Alpenhorn News, newspapers of general circulation in the area. In addition, individual mailed notice of LAFCO 3047 was provided to affected and interested agencies, County departments, those agencies and individuals requesting mailed notice, and landowners and registered voters pursuant to State law and Commission policy.

The staff recommendation is that the Commission approve the Executive Officer's expense report and payments as reconciled, noting the cash receipts, and take the following actions for LAFCO 3047: (1) certify that it is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five working days; (2) approve LAFCO 3047 with the standard terms and conditions of approval; (3) waive protest proceedings, as permitted by Government Code Section 56663 with 100% landowner consent; and (4) adopt LAFCO Resolution No. 2909 setting forth the Commission's findings and determinations concerning this proposal.

Chairman Biane asks whether there is anyone present wishing to discuss any of the consent calendar items. There is no one.

Commissioner Williams moves approval of the consent calendar, seconded by Commissioner Colven. Chairman Biane calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

CONTINUED ITEM

**CONTINUED FROM FEBRUARY 15, 2006 – CONSIDERATION OF: (1) CEQA STATUTORY
EXEMPTION FOR LAFCO 2919; AND (2) LAFCO 2919 – SERVICE REVIEW AND SPHERE OF
INFLUENCE UPDATE FOR SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT –
APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing continued from February 15, 2006, to consider a service review and sphere of influence update for the San Bernardino Valley Water Conservation District (hereinafter referred to as the "SBVWCD" or the "District"). Notice of the original hearing on March 16, 2005, was advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual mailed notice of this hearing was provided to affected and interested agencies, County departments and those agencies and individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Ms. McDonald states that this

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service review began in March of 2005; that staff has made four separate presentations on it and believes that everything that can be said has been said on staff's part. She says that at the February 15 hearing the Commission received a copy of the Stakeholder's Committee Report that was developed over a series of meetings beginning in October 2005 through January 2006. She says the majority position presented in that document identifies responses to the four questions the Commission put before that Committee. She says the staff report presented at the February 15 contains that information.

Ms. McDonald says the staff recommendation, which remains unchanged, is that the Commission: (1) determine that the designation of a zero sphere of influence for the SBVWCD is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days; (2) designate a zero sphere of influence for the District, indicating that it is the position of the Commission that the District should ultimately consolidate with another; and (3) adopt LAFCO Resolution No. 2893 setting forth the Commission's findings and determinations. However, Ms. McDonald says that if after testimony the Commission feels another direction should be taken, other options are outlined on page two of the staff report and include that the Commission: (1) determine that the affirmation of the District's existing sphere of influence or the amendment to a coterminous sphere through LAFCO 2919 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption; (2) make the findings related to a service review and determine that the sphere for the SBVWCD should be affirmed in its present configuration or amended to be coterminous with the District's boundaries; and (3) defer adoption of the resolution making these determinations to the consent calendar for the April 19, 2006 Commission hearing. She asks if there are any questions.

(It is noted that Commissioner Gonzales arrives at 9:22 a.m.)

Commissioner Hansberger says he has questions but wants to hear the testimony first to see if his questions are resolved.

Chairman Biane opens the hearing and says he will call first on those requesting to speak in opposition to staff recommendation.

Jess Senecal, Special Counsel for the District in connection with LAFCO matters, states that he or one of his partners attended all the Committee meetings and they are familiar with this proposal. Mr. Senecal compliments Ms. McDonald on the fine summary and history of the transaction that she presented. He states that based on his experience, he is a little surprised by these proceedings because a water conservation district generally is not subject to some of the LAFCO proceedings because it can be determined to be a non district. He reports that Government Code Section 56128 says that if a water conservation district does not get into the retail business and does not do fire protection or police protection, it generally is not considered to be a district, and portions of the Cortese-Knox-Hertzberg Reorganization Act do not apply. He says that the question posed by LAFCO staff that has brought them here today is "Why are there three overlapping agencies within this portion of the Bunker Hill Basin of the eastern San Bernardino Valley authorized to provide water conservation services?" He says that staff has concluded that there should not be three agencies doing that and has recommended a zero sphere for the District and invited someone to proceed with a possible consolidation. Mr. Senecal says there are not three agencies in that portion of the Basin providing the same services, pointing out that the Flood Control District has opted out of this issue by saying it is not interested in water conservation. He says that SBVWCD and the San Bernardino Valley Municipal Water District (hereinafter referred to as "Muni") do engage in water replenishment and recharge activities, but not in the same area or with the same source of supplies, so there is no overlapping of activities or operations, but an overlapping of area. He says that staff correctly was motivated by everyone's desire to bring about proper water resource management in this valley and he says the District's view is that proper groundwater management presently exists. He says that a settlement agreement among the stakeholders has been entered which provides the framework for consultation, cooperation and coordination of recharge and replenishment. He says there is also the Wash Plan which, after much effort organized and directed in part by the District, has brought together all stakeholders and regulatory agencies and has the possibility of working out a myriad of uses that exist in the Santa Ana River Wash that will be beneficial from a groundwater resource management standpoint. He points out that LAFCO staff has acknowledged that nothing in the materials presented indicate that the District is not doing a good job or is not doing what it is supposed to

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do. Mr. Senecal says the District felt that one of the gaps in the material was the lack of an independent financial analysis. He says the District requested that the Commission engage an independent consultant to do such an analysis but the Commission did not think that was necessary. He introduces Dr. Gardner who was hired by the SBVWCD to do a fiscal analysis.

Dr. Thomas Gardner discusses his experience, which includes working as a consultant measuring the fiscal capacity of agencies in a number of federal and state court cases. Dr. Gardner says the question here is whether, upon consolidation, they will get a more efficient system. He says that there would be efficiencies achieved if comparable agencies were being consolidated, but he discusses that Muni is an agency with salaries for common positions that are 20% higher in pay than SBVWCD and that the retirements are extremely different, with life-long health benefits for Muni retirees, while the SBVWCD has lower retirement benefits, lower salaries and no medical retirement. He says that while there may be an opportunity to reduce staffing through a consolidation, there will be some immediate savings, but he says the fundamental structural expense of Muni is far different than that of the SBVWCD and will consume that savings. He says that although both are water agencies, their structural financial differences are very important. Dr. Gardner discusses that an analysis presented earlier to the Commission indicated that \$600,000 in overhead savings could be achieved, assuming that lawyer, engineering and environmental consultant expenses would all be a cost savings. However, he says the fact is that those cost savings have already occurred; they were a one-time cost for the issue related to water rights, and are not a long-term cost. Regarding the reduction of the groundwater charge, he says the assumption that if there is a savings in one place, they can pass the groundwater charge savings somewhere else, can be done with or without a consolidation, noting that may or may not be advisable. In conclusion, he says that from a financial standpoint it would be very wrong to tell the public that this is a cost savings item because it is not and will cost more. He says his report, a copy of which is attached to the February 6, 2006 staff report, did an extensive background review of multiple years of financial documents of both the District and Muni.

Cheryl Tubbs, President of the Board of Directors of the District, states that most people who have provided information and testimony agree that the District is executing its responsibilities and is doing so in a professional manner. She says that Ms. McDonald in the staff report said that the District is well-managed and is performing its responsibilities. She says many here today are asking how a simple municipal service review has turned into a recommendation for a zero sphere and the potential for a future consolidation. Ms. Tubbs says the District has insured the local water producers a supply of high quality native groundwater and says that if a consolidation were to occur in the future, they would no longer be able to ensure the local producers that when native water is available from the Santa Ana River and Mill Creek that it will be captured only for local use. She says that is not Muni's role; that the two agencies perform different responsibilities; and there is uniqueness between them. She discusses a series of "moving targets" she says advocates of a potential consolidation have presented. First, she says some have argued that the District's groundwater assessment is high and should be abolished. She says arguments for eliminating that assessment have not been presented in the hearings the District has had in annually setting that charge, but she reports the District has been asked in the past to reduce that charge and has currently been able to do so because mining revenues are high, economic development in the County is high, the need for aggregate is high, and they have had an increase in revenues they have not had in the past. She reports that the District issued a rebate for up to 50% of the assessment for the first half of 2005/06 and says the Board took an action last week to advertise the same groundwater assessment rate and to keep the rebate. Ms. Tubbs says another "moving target" was the District's defense of its pre-1914 water rights. She reports that in August 2005, negotiations were reached and a settlement is now in place and she says that all costs associated with that battle are now gone. Regarding a consolidation saving money, she points out that Dr. Gardner's comprehensive analysis showed that Muni could not perform the functions of the SBVWCD at a lower cost and, over the long term, the cost of services would increase since Muni has more expense operations. She says that the staff report indicates that the Commission must look at efficient and effective operations in a regional context. She says if the District is consolidated with Muni, the taxpayers in Muni's entire boundary would be paying for recharge of the Santa Ana River and Mill Creek water, from which they would not directly benefit by recharge operations. She says by reducing the District's sphere, the Commission will be taking away 70 years of groundwater recharge expertise, eliminating the historical insurance program the

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District has provided to local producers, and potentially increasing the long-term costs of water conservation. She says the District is well managed, publicly open, fiscally responsible and efficiently run and stands for what LAFCO should be encouraging and not eliminating, and she says if the Commission agrees, the District is asking that it affirm the existing sphere or make it coterminous with existing District boundaries.

Commissioner Sedano asks what is the camaraderie among all the different water agencies in the general area involved in this discussion and whether it is true that everyone is communicating for the first time in about 25 years. Ms. Tubbs says there has been some progress made; but she notes that things always change as the elected officials on water boards and water agencies change and staffs change, but she says there is an agreement in writing and an opportunity for people to cooperate and operate in a manner that benefits everyone. She says she has been in the water business for 25 years and that things are in a better position now than they have been in two and a half decades.

Chairman Biane calls on those wishing to speak in favor of staff recommendation.

Doug Headrick, Chief of Water Resources, City of Redlands, states that the City has been an active participant in this process and has supported a zero sphere from the beginning, based on an analysis of the cost savings. Mr. Headrick says the District's paid consultant has a different view and he can appreciate that. He says that today the City is requesting that the Commission accept the recommendation from three groups that have been involved in this process from the beginning. First, he says LAFCO staff has stayed committed to its position, even in the face of several attacks about the staff's performance. Second, he says the Senior Water Managers of every agency involved in this have agreed that there are added efficiencies and effectiveness through a zero sphere designation and ultimate consolidation and he says that seven different agencies representing hundreds of thousands of people have come to that conclusion. Third, he says that back in 2005, the SBVWCD in a document submitted to the Commission suggested that the Commission should follow the recommendations of the vast majority of water purveyors in this Basin. However, he adds that although the District at that time did not know or recognize that all the water agencies were supporting consolidation, the key is that the District recognized that it is important that the Commission take into consideration the view of the water agencies in this Basin who pay the costs. Mr. Headrick says the City requests that the Commission consider the views of the water agencies and the State directives to evaluate effective and efficient delivery of governmental services.

In response to inquiry of Commissioner Sedano, Mr. Headrick states that the East Valley Water District voted in the affirmative on all four questions the Commission put to the Committee. Commissioner Sedano asks whether East Valley Water District's agreement with the answers to all four questions means that it is in favor of consolidation. Mr. Headrick responds that his statement was that the agencies agreed there were efficiencies and cost savings that can be achieved through consolidation.

Bob Reiter, General Manager and Chief Engineer of Muni, states that he wants to focus on Management Partners' report, noting that while Muni takes issue with a number of assumptions and statements in the report, he will hit three points that have been made. First, Mr. Reiter says that while the February staff report indicated that the City of Riverside owns two parcels within Muni's boundaries, there are over 40 parcels that are "extra territorial" to the City of Riverside and pay significant taxes to Muni. Second, he says that much has been made regarding Muni raising its property tax for debt service this past year. He discusses that Muni is facing increased costs for State Water Project participation in future years and says the Board's theory in raising the rate now was to plan for the future and make a modest increase now instead of waiting until a huge increase in Muni's bill came due and Muni would have to make a very radical increase in property taxes. He explains that over the life of Muni's contract for the State Water Project, participation in that Project represents an investment of over \$1,300,000,000 by the people of this area and he says Muni wants to keep the costs as level as possible and raise the rates as needed when necessary, without any dramatic shifts. Third, Mr. Reiter says an issue was made regarding Muni's \$11 million insurance reserve being excessive. He explains that the District has over 17 miles of 78" diameter cement mortar line steel pipe that parallels the San Andreas fault from Devil Canyon to the Santa Ana River. He says the replacement cost of that one facility is estimated at over \$180 million; that

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while they do not anticipate a failure of that pipeline as far as the steel is concerned, in the event of a major earthquake the cement mortar lining will fail over a significant portion of the pipeline and will have to be redone, which is a huge expense. He points out that Muni had been insured for some of these expenses until the early 1980's when insurance costs were greatly inflated from time to time so the Board adopted an alternative to be self-insured for coverage of that type.

Jon Harrison, Mayor of the City of Redlands, states that some months back the City heard input from City staff and representatives of SBVWCD on the issue of consolidation. He reports that the City voted to support LAFCO staff's position to pursue a zero sphere designation and ultimate consolidation, and he says the City continues to maintain that position. Mr. Harrison says the City feels that will result in significant savings in costs of upwards of \$120,000 per year and says the City can still maintain the water conservation services delivered now by SBVWCD by those services either being picked up by Muni or possibly in some way by the City. He says the City appreciates the work performed by LAFCO staff and the Committee in analyzing the four questions. Regarding the continuation of the Plan B process, he says the City supports the position that completion of Plan B should be continued within the purview of the SBVWCD if the Commission designates a zero sphere, since the City feels that is a logical progression. He says that Plan is in the environmental analysis stage now and hopefully will be done within about a year. Mr. Harrison reaffirms that the City's position has not changed and asks that the Commission support staff recommendation.

Chairman Biane states he has no more speaker slips and asks for comments from the Commissioners.

Commissioner Hansberger apologizes for not being able to be at last month's hearing and says he has a series of questions. He says they have talked about long-term economic benefits and says he has seen reports that say that money might be saved. He asks Ms. McDonald what confidence she has that money will be saved, taking into consideration what the District's financial consultant said about the staffing cost differences of the District and Muni. He notes that part of his concern is that he is "jaded". He discusses the consolidation of the County's Fire Districts, which he says was done totally on the argument that the County would save a million dollars; then they were told they would save \$600,000, then \$300,000; but he says in the first year, that consolidation has actually cost the County about a million dollars. He says assumptions were made that were not true, and says that same thing was also recently done regarding the Coroner's office being consolidated with the Sheriff's office, which again has cost the County money. He says the point is not that those consolidations were wrong, but that they were done for the wrong argument—that money would be saved, when it was not. He says they have a parallel situation with the SBVMWD and Muni because their employees are compensated very differently. He asks Ms. McDonald what confidence she has that the argument that the public will benefit from an economic savings will actually come true.

Ms. McDonald responds that the Commission does not have that type of information in front of it at this time because there is no Plan for Service since no consolidation proposal is before the Commission. She says the sphere determination is for use as a planning tool, indicating that at some future point a consolidation should be considered. She says that if a consolidation is presented for official consideration, a Plan for Service would be developed that would need to identify personnel costs, retirement costs, facility transfers, etc. She says that cost savings are anticipated through a reduction in administrative duplications. However, she says those savings will not be specifically known until a Plan for Service is prepared. Commissioner Hansberger comments that during the County fire consolidation, they heard that savings would occur because one of the two entities had much lower labor costs. However, he says they did not benefit from that savings because people at the lower level do not want to work for the same boss and get less money, so he says that generally you can assume that the cost of labor will be whatever the higher cost is. He asks whether Ms. McDonald believes that cost savings are available, if she makes that same assumption. Ms. McDonald responds that she does, pointing out that cost savings are a much bigger issue than just employees, and pointing out that there would be no need for two separate boards or two attorneys if the two agencies were consolidated. However, she says she does not know with any certainty that any employee costs would go down and says that no where has that statement been made. Commissioner Hansberger says his concern is that this whole discussion has been about how to save money and he thinks some of the assumptions are not extended to what is a

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logical outcome. He says Ms. McDonald is saying that those types of issues should be considered at the time of any consolidation hearing, which he says is right.

Commissioner Hansberger asks how the cost savings from a consolidation would benefit the public through a successor agency, so that the costs are not just transferred to a different party to spend the money at the same cost of doing the business. Ms. McDonald responds that the removal of the groundwater assessment will directly benefit the constituents of the SBVWCD since they are charged that because the groundwater extractors are charged that fee and it is part of their fee structure.

Commissioner Hansberger asks how the area in this County, which has to buy water from Northern California to put into the Basin, gets compensated for the water which is extracted and exported into Riverside County—whether Riverside is helping to pay for that importation of water. Ms. McDonald says that this is an adjudicated Basin and that every extractor has the ability to extract a certain amount of water. She says Muni, as the Water Master, can respond to that question. Commissioner Hansberger says his concern is one of equity, and not whether or not they have the right to do it. Commissioner Nuaimi asks whether the City of Riverside was excluded from any of the rebates that were issued. From the audience a District representative indicates that the City was not excluded. Commissioner Nuaimi states that the District Board decided to cut rates and rebate money based on its policy decision so he says that is not a dialogue for LAFCO. Commissioner Hansberger responds that he agrees and is not arguing that the charge should exist but he says his question is whether they can ensure that the reasonable availability of water is being paid for by those who receive it.

Commissioner Hansberger says his third question relates to an exchange agreement that has been developed among a number of water agencies whereby instead of taking water to which they have a right, they take different water in the area because it is more efficient to do so. He says he believes that SBVWCD, who receives nothing from that exchange agreement, is the referee who determines those issues. He asks what the District's role is. Ms. McDonald says he will have to ask the District that question but says she believes the District accounts for the waters transferred and is responsible for the equalizing of that. Commissioner Hansberger asks who will assure the equity of that agreement like SBVWCD did, if the District is consolidated with Muni, who is one of the signatories to that exchange agreement and a beneficiary from it. Ms. McDonald responds that some agencies call the District an accounting manager but she says Mr. Huffstutler can answer that question.

Commissioner Hansberger asks how the successful completion and implementation of the Wash Plan can be assured if there is a consolidation. Ms. McDonald notes that the District, as well as the Cities of Highland and Redlands, greatly desire to move forward with the Wash Plan. She explains that the Committee Report documents a process as to when a consolidation would be considered and milestones that need to be reached before a consolidation could move forward, in that the Wash Plan must be presented and the environmental documents must be completed. Commissioner Hansberger says it was discussed that if Muni were to be a successor agency, it may not be interested in using native water versus State water. He says he does not understand why that would be true but would like to hear a response to that. Ms. McDonald responds that it is difficult for her to understand why an agency would choose to use State Project water that costs a lot of money when native water is available, but she says Mr. Reiter can answer that question. Commissioner Hansberger comments that he was told by someone in the Treasurer-Tax Collector's office that those living in Redlands and Yucaipa have especially high taxes because they pay more for water than everybody else does. He asks whether this action will help bring the price down or drive it up. Ms. McDonald reiterates that the designation of a zero sphere of influence does nothing to the District. Commissioner Hansberger responds that saying a zero sphere designation does nothing is not accurate because he says it starts a chain of actions which may ultimately result in nothing or something. Ms. McDonald explains that any future action that may be proposed will have to meet all standards for a consolidation and will be presented to the Commission for review and consideration as a separate action evaluated on its own merits. Commissioner Hansberger says that it very important to hear and says that if that time comes, he would like to think that the Commission would not engage in general assumptions but test them for accuracy.

Chairman Biane states that before he asks for someone to answer Commissioner Hansberger's questions, he would like to hear any comments from other Commissioners.

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Commissioner Nuaimi asks what zeroing out of the sphere will mandate of the District and whether it will change its ability to continue operating in its current configuration. Ms. McDonald responds that a zero sphere designation does nothing to the existing structure of the District—the District still exists, receives property taxes and has obligations to perform certain duties. She explains that the zero sphere of influence is a planning tool that indicates that the Commission’s perspective is that it should look to consolidation on a regional water recharge basis. She reiterates that a consolidation requires a subsequent proposal to be initiated, reviewed and evaluated by the Commission; that it must have an environmental review; and must address such issues as finances and the transfer of employees and assets. She says that although the Commission has the authority to initiate a consolidation, staff is not recommending that; but is only recommending a sphere that directs that the recharge in the Bunker Hill Basin should be addressed regionally. In response to Commissioner Nuaimi, Ms. McDonald says that if the District wanted to do some other kind of operation in the realm of water conservation efforts, the Commission would have no jurisdiction over that. However, she says that if the District wanted to expand and propose annexation, it would have to submit a sphere of influence expansion proposal along with an annexation proposal.

David Cosgrove, General Counsel for the SBVWCD, responds to Commissioner Hansberger’s questions. Regarding long-term economic benefits, Mr. Cosgrove says the District’s independent consultant looked at staffing costs, and other costs such as legal or administrative costs, and said that over time, the higher staffing costs would eat up any cost savings there might be administratively. Regarding how the cost savings would benefit the public, Mr. Cosgrove says the proponents of consolidation would say that a groundwater charge is not needed because the mining revenues are high enough that they will carry all the operations in terms of costs that the SBVWCD currently does. He says the District does not believe that; they think that those revenues are variable over time; and it is a gamble to take that position. He says they believe it is safer public policy to leave the mechanism for the groundwater charge in place and, when the revenues are high as they currently are, there is a mechanism for refunds. He points out that if the groundwater charge is eliminated and if the mining revenues are not high enough to cover all the costs, alternative revenue sources will have to be looked at. He says that Riverside will pull water out and pay for it and will get money refunded if they pay too much. However, he says if the mining revenues over the long haul do not cover those costs, the District thinks it is likely that those costs could get shifted to all the constituents of Muni. Regarding the exchange agreement plan, Mr. Cosgrove says the District is the Project Manager of the plan and says it is more of an accounting function than a referee of disputes. He says there is no requirement that the District be that manager and it could be changed. However, he says the District has had that role since 1977 and thinks it has the confidence of the people who are in that exchange to continue as the Manager. Regarding the Wash Plan, Mr. Cosgrove says that everyone agrees that it should be completed, but that some think there should be a change in who “carries the ball.” He says if the proponents of consolidation acknowledge that there is a public benefit to be had in allowing the District to complete the Wash Plan effort, the Commission should think there would be a benefit for the SBVWCD to implement the structural water management solutions they have come to with the settlement agreement to resolve the historical battles and inefficiencies. Regarding the allegation that a sphere of influence designation does nothing, Mr. Cosgrove says that Commissioner Hansberger has his finger on the pulse of that issue—that it does do something. He says that a zero sphere of influence, which is an administrative creation and not something specified in statute, essentially is a mechanism using the sphere structure to get the Commission to embrace a policy decision that consolidation is supposed to happen. He says that is why they keep coming back to consolidation issues and says the District thinks the Commission is being asked to put the cart before the horse. Mr. Cosgrove says they think the Commission should approve the existing sphere and let the Wash Plan and the settlements come to fruition.

Chairman Biane says he would like to hear answers to the equity issue and the issue of using State water versus native water brought up by Commissioner Hansberger.

Mr. Reiter discusses first the equity issue, stating that he is the court-appointed Water Master for this area for the 1969 settlements for both the Bunker Hill Basin and the Santa Ana River. He says that under that 1969 settlement, the export rights, which include the City of Riverside, Riverside-Highland Water

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Company, Gage Canal, Regents of the University of California at Riverside, Agua Mansa Water Company, Meeks and Daly Water Company have an absolute right to 27.95% of the safe yield of this Basin. He says they may not go over that amount without agreement from Muni. He notes there was a high groundwater problem some years ago and they agreed to additional pumping under those circumstances to help solve the liquefaction problem in this area. Regarding the cost of supplemental water to handle excess extractions which is required to be replenished, Mr. Reiter says that only pertains to the residents of Muni and only Muni's residents pay for that. He says they receive the benefit from the debt service to pay for supplemental water to cover excess extractions. Regarding the issue of native water, Mr. Reiter explains that Muni's draft EIR for its water rights applications indicates that the first area of recharge is native water. He says that the only point at which they would take native water and bank it some place else is if the groundwater basin, per a groundwater management plan agreed to by all the water agencies, will not handle additional water. He discusses that there are significant groundwater plumes in the Basin that have to be considered when water is being placed in the ground and says that is a huge constraint on how much water can be put into the ground at any one time.

Ms. Tubbs says she would like to supplement comments of Mr. Cosgrove and Mr. Reiter. Regarding Commissioner Hansberger's comments about equity, Ms. Tubbs explains that SBVWCD's customers, such as the East Valley Water District and the Cities of Redlands and San Bernardino, are water retailers who receive the District's groundwater assessment bill and then pass that charge on to their customers, most likely in water bills. She says that Muni's costs for being a State Project water contractor and importing State Project water are paid for by taxpayers who own property within Muni's boundaries; that Muni does not send a water bill to homeowners or renters. She says the District sends the City of Riverside a bill for the groundwater assessment; that the water customers in Riverside are paying for that charge in their water bills but not the property owners. She says the City of Riverside does own property in Muni so there is some equitability. Ms. Tubbs says that the quality of the State Project water that comes from the Sacramento Delta is of less high quality than native water so the District likes to see native water stay in the valley because it is a better quality. She says the District is not saying that Muni will export 100% of the water that comes out of Mill Creek and the Santa Ana River if Muni takes over SBVWCD's operations, but she explains that Muni has the facilities to do that and the ability to move water from one end of the Basin to the other where it is needed. She points out that there is a pipeline on a map in Muni's master plan that goes behind the Seven Oaks Dam which could take the high quality native water out of the Bunker Hill Basin and take it elsewhere.

Chairman Biane calls for further questions.

Commissioner Nuaimi discusses that when this was originally considered, a zero sphere was not the only recommendation and he says another option presented was to expand the District's sphere to encompass the entire Bunker Hill Basin, which was opposed by the District. Ms. McDonald adds that was also opposed by the underlying water stakeholders. She reports that a previous staff report outlined the positions taken by the various Santa Ana River interests on the two options.

Commissioner Hansberger asks whether the Commission can bring back this sphere issue for consideration again if it feels in the future that it erred in making its decision. Ms. McDonald explains that a sphere is solely a policy declaration and the Commission has the ability to bring the issue back at any time. Commissioner Hansberger says if they go forward with staff recommendation and get to the point of considering consolidation and find that it is not appropriate, the Commission needs to know it has the ability to say that the status quo or something akin to that is the appropriate action. Ms. McDonald responds that if the Commission receives a consolidation proposal and, after evaluating it, believes that consolidation is not appropriate, at that time the Commission can direct that the sphere of influence be returned for consideration.

Commissioner Nuaimi asks whether the District's groundwater assessment is unique in that if a future consolidation occurred, that fee could not be put in place. Ms. McDonald responds that if a consolidation occurred with Muni, it cannot impose the groundwater charge in the same way that SBVWCD does. Mr. Reiter states that the Municipal Water District Act of 1911 gives Muni no authority to levy an assessment without getting that statute changed.

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Commissioner Colven discusses that Ms. McDonald has indicated that a sphere issue can be revisited at any time and that the Commission could make certain amendments and require information to come back to it on which to predicate whether or not to reverse its action. He asks whether they could condition their action so that status reports can be received and Ms. McDonald responds that the Commission can direct staff to return with status reports.

Commissioner Pearson says they got off on the wrong focus of money but he says the real issue is water and its management, which is critical to the future of Southern California. He says Mr. Reiter presented some comments he was going to make because Muni has been designated the Water Master for this area; has the overall control to ensure that the adjudication completed in the Basin is followed and to ensure that the adjudication amounts are properly followed; and has the responsibility to take steps to acquire additional water rights if they are available. He says he thinks the key is to have a single water agency that is in charge of ensuring that the adjudication and various agreements are being followed. He says the fact that the various agencies in the valley are talking for the first time is a step in the right direction to bring all the entities together to manage the availability of water. He says he thinks staff recommendation at this point seems to make the most sense. Chairman Biane asks whether that is a motion for staff recommendation.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Nuaimi. Chairman Biane says that if they move forward with the motion, knowing that they will see this issue again as the consolidation discussion continues, he can reluctantly support the motion since the Commission can reverse its decision at the point in time when an analysis is presented for consideration.

Commissioner Nuaimi discusses that this sphere review has stimulated scrutiny, as well as dialogue among the water agencies. He says that if a consolidation proposal comes before the Commission and it does not make sense, the sphere can go back to what it is today. But he says he thinks the motion is a prudent action for LAFCO as a planning organization defining a sphere.

Commissioner Hansberger says this area is in his district and he has a high regard for everyone who has spoken on this issue. He says he agrees with Commissioner Pearson that water and its management are the critical issues. He says that whatever action is taken today by the Commission must be followed with great diligence and that any subsequent action must be pursued with great caution. He says he will support the motion because he thinks the discussion is valuable. However, he discusses that he thinks that both agencies play valuable roles and says he may be opposed to a consolidation if he ultimately does not think those roles can be preserved in the hands of one agency as opposed to two. He says that unless one agency can do both roles well, they would be better off to spend a few extra dollars and have each do their roles separately.

Commissioner Colven asks Commissioner Pearson if he would consider amending his motion to include that in six months the Commission should be presented with a review of the facts that have been provided at this time to see if any change has occurred from accepting the staff recommendation. Commissioner Pearson responds that they are only looking at the sphere issue today and the consolidation will come back to the Commission in its own time. Commissioner Hansberger states this is not the end; it is just the beginning.

Commissioner Sedano asks Legal Counsel Clark Alsop what the District's function will be if its sphere is removed today. Mr. Alsop responds that he concurs with what Ms. McDonald said earlier—that the zero sphere designation does nothing; that the sphere is a planning tool and the District's functions will continue just as they are today. Commissioner Sedano says the Commission is directed by legislation to look at these types of issues and possibly do a consolidation. However, he says he also has a lot of special friends here today who he has known for many years and who helped him when he ran a water district. He says it is very difficult for him to agree with the motion because of his friendships. But, on the other hand, he says he is an ex-Marine and always followed a direct order. He says he will take a stand and say to the other Commissioners that "if it doesn't need fixing, don't fix it." He says they should leave

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the sphere as it is; that people are talking now and getting along for the first time and that he cannot see that removing the District's sphere will enhance any of the harmony that is going on.

Chairman Biane calls for objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Chairman Biane thanks everyone for being present today. He says everyone's hearts and efforts are in the right place and he is sure they will see this issue again. Commissioner Hansberger thanks the Commission for continuing this matter from last month so that he could be present for the hearing and pose the questions he wanted to pose.

DISCUSSION ITEMS

CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY CRESTLINE-LAKE ARROWHEAD WATER AGENCY FOR SNOW VALLEY ANNEXATION AND FACILITY IMPROVEMENTS (SCH NO. 2003121105), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2987; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 2987 – SPHERE OF INFLUENCE REVIEW FOR CRESTLINE-LAKE ARROWHEAD WATER AGENCY (EXPANSION) AND SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT (REDUCTION) – APPROVE STAFF RECOMMENDATION

LAFCO Analyst Michael Tuerpe states that he will be presenting both Item 7A—LAFCO 2987, a sphere review, and Item 7B—LAFCO 2988, the companion annexation proposal.

LAFCO conducts a public hearing to consider a proposal initiated by the Crestline-Lake Arrowhead Water Agency (hereinafter referred to as "CLAWA" or "the Agency") to expand its sphere of influence by approximately 280+/- acres and concurrently remove the same area from the sphere of influence of the San Bernardino Valley Municipal Water District (hereinafter referred to as "Muni"). This area is part of a larger annexation proposal (LAFCO 2988) to support the construction of a pipeline and related improvements in order for CLAWA to provide the Snow Valley Mountain Ski Resort (hereinafter referred to as "Snow Valley") with a supplemental source of water for snow-making purposes. Notice of this hearing was advertised as required by law through publication in The Sun and The Alpenhorn News, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and landowners and registered voters pursuant to State law and Commission policy.

Mr. Tuerpe presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. He shows various slides of the boundaries of CLAWA and the proposed expansion area, which is located in the San Bernardino National Forest and is generally located east of CLAWA's sphere boundary, north and south of State Highway 18, and west of Green Valley Trail. He says that as a State contractor, CLAWA sells imported water wholesale to approximately 25 retail purveyors for domestic use and fire protection purposes. He explains that due to restrictions in its State water contract, CLAWA cannot provide water to Snow Valley unless Snow Valley is annexed into the Agency's boundaries and that, in order to encompass the entirety of Snow Valley, this sphere expansion for CLAWA and sphere reduction for Muni are required to allow the annexation to proceed. He notes that Muni has consented to the reduction of its sphere.

Mr. Tuerpe discusses the present and planned land uses in the area, as outlined in the staff report. He says the area consists of uninhabited vacant lands and the recreational and commercial uses of Snow Valley and that the current land use designations assigned by the County are Bear Valley Resource Conservation and Resource Conservation, with an Improvement Level 5 designation assigned to the area. He points out that this sphere modification splits three parcels, as shown on the map on the overhead display, and is inconsistent with State policy for proposed boundaries to conform with lines of assessment or ownership. He explains that the Commission can override State law if it believes there is rationale to do so and he says staff believes that the sphere expansion provides for a logical service boundary as it will allow for the extension of water service to only that area included within Snow Valley. He reports that the Forest Service, as the owner, has no objection to the boundaries not following lines of

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assessment and ownership. Mr. Tuerpe states that CLAWA's boundary and sphere in the eastern area are within the Hilltop Community Plan; that Snow Valley straddles the Hilltop and Bear Valley communities as defined by the County's Community Plans; and that CLAWA must expand its sphere into the Bear Valley community in order to encompass all of Snow Valley. As shown on the slide, he says the community divide generally follows the crest of a ridge, with the Bear Valley Community sloping to the east and the Hilltop community sloping to the west. However, he explains that this project is consistent with the goals and policies of both community plans by promoting economic development compatible with the mountain character of these communities; the proposal will not change the Bear Valley Community Plan or its land use designation; and staff does not believe this sphere expansion will impact the community of Bear Valley since the proposed service is to exclusively provide Snow Valley, and no other, with a supplemental and interruptible source of water.

Mr. Tuerpe says this area is part of a larger annexation proposal (LAFCO 2988) to support the construction of a pipeline and related improvements in order to provide Snow Valley with water for snow-making purposes and he says materials provided in the application indicate that the level of service anticipated can be provided by CLAWA. He explains that the water service proposed to be provided to Snow Valley would be made interruptible in the event the Agency requires the water for other uses; it is to be delivered during the ski season when CLAWA has the least demand; and the water is to be provided for snow-making purposes and not for consumption. Therefore, he says the future need for service is not anticipated to change as a result of this proposed sphere expansion.

Mr. Tuerpe discusses the environmental review, stating that in 2004, the Agency certified the Final Environmental Impact Report for this project and adopted a Finding of Fact and Statement of Overriding Considerations. He says the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, has reviewed CLAWA's environmental documents, which were provided to the Commission at the February 15 hearing; determined they are adequate for the Commission's use as a CEQA responsible agency; and has presented a Candidate Findings of Fact and Statement of Overriding Considerations for adoption by the Commission. He says the necessary actions to be taken by the Commission are outlined in the staff report.

Mr. Tuerpe states that no written protests to this sphere expansion have been received. He says that staff is recommending approval of LAFCO 2987 for those reasons listed in the staff report and says the staff recommendation is outlined on pages one and two of the staff report and includes that the Commission: (1) take the listed actions related to environmental review; (2) approve LAFCO 2987; and (3) adopt LAFCO Resolution No. 2910 setting forth the Commission's findings and determinations.

Commissioner Gonzales comments that Mr. Tuerpe mentioned that the water service will be uninterruptible and asks whether that means there could be an increase in the amount of water that is used. Mr. Tuerpe responds that he may have misspoke but he clarifies that the water service will be interruptible if CLAWA determines that the water needs to be used elsewhere.

Chairman Biane opens the hearing and calls on those wishing to speak.

Mike Riddell of Best Best & Krieger, Attorney for CLAWA, speaks on both the sphere and annexation proposals. Mr. Riddell states that the Agency initiated both applications in response to a request from the Snow Valley Ski Resort which wanted access to the Agency's imported water supply for the Resort's use when needed. He says it is not needed now but they would like to have access to imported water for snow-making purposes for the future when things may be dry and the weather is right. He notes that the sphere expansion has been requested, as mentioned by LAFCO staff, since the Agency cannot supply water outside its service area. As also mentioned by staff, he says the water will be an interruptible water supply since it was very important to the Agency that the water remain available for use by the Agency's existing customers for domestic purposes and that source not be taxed to satisfy a request for a secondary need for recreational purposes. He notes that the Ski Resort occupy's its space pursuant to a special use permit from the Forest Service and he reports that the Forest Service concurs with both proposals and that Muni consents to the reduction of its sphere to allow the service to be provided.

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Chairman Biane asks whether there is any conflict with both the Commission and the Agency being represented by attorneys from Best Best & Krieger. Mr. Alsop states that conflict waiver letters have been signed by the Commission and CLAWA.

It is noted that a Request to Speak in opposition to the staff recommendation has been submitted by Steven Farrell of the Sierra Club. Mr. Farrell was not available to speak due to a prior commitment, but his opposition is noted.

Chairman Biane asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Hansberger moves approval of staff recommendation, seconded by Commissioner Cox. Chairman Biane calls for any opposition to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY CRESTLINE-LAKE ARROWHEAD WATER AGENCY FOR SNOW VALLEY ANNEXATION AND FACILITY IMPROVEMENTS (SCH NO. 2003121105), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2988; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 2988 – ANNEXATION TO CRESTLINE-LAKE ARROWHEAD WATER AGENCY – APPROVE STAFF RECOMMENDATION AS MODIFIED TO EXCLUDE AREAS NORTH OF HIGHWAY 18

LAFCO conducts a public hearing to consider a proposal initiated by the Crestline-Lake Arrowhead Water Agency (hereinafter referred to as "CLAWA" or "the Agency"), at the request of the operator of the Snow Valley Mountain Ski Resort (hereinafter referred to as "Snow Valley") to expand the Agency's boundaries by approximately 1,235 acres to support the construction of a pipeline and related improvements in order for CLAWA to provide Snow Valley with a supplemental source of water for snow-making purposes. Notice of this hearing was advertised as required by law through publication in The Sun and The Alpenhorn News, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and landowners and registered voters pursuant to State law and Commission policy.

LAFCO Analyst Michael Tuerpe presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Mr. Tuerpe states that due to restrictions in its State water contract, CLAWA cannot provide water to Snow Valley unless Snow Valley is annexed into the Agency's boundaries. He reports that the process to receive a supplemental source for snowmaking began in 1998 with discussions between CLAWA, Snow Valley and the United States Forest Service; that in August 2000, the Agency prepared and circulated a draft Mitigated Negative Declaration and in 2004 drafted an Environmental Impact Report (EIR); and that the boundaries of the proposal were determined through these processes. He shows the annexation area on the map displayed, indicating that the area is located in the San Bernardino National Forest and is generally northeast of the community of Arrowbear, southeast of the community of Green Valley Lake, and north and south of State Highway 18.

Mr. Tuerpe says the existing land uses consist of vacant National Forest lands, recreational and commercial uses of Snow Valley, and some scattered cabins and television and cell phone towers; that the County has assigned an Improvement Level 5 designation to the entire area; and that the land use designation assigned is Resource Conservation. He explains that this proposal also deals with community divide and split parcels, pointing out on the map that the five western parcels are in the Hilltop Community Plan area and are designated Hilltop Resource Conservation; and that the three eastern parcels are in the Bear Valley Community Plan area and are designated Resource Conservation and Bear Valley Resource Conservation. He says, however, that this project is consistent with the goals and policies of both Community Plans by promoting economic development that is compatible with the mountain character of the communities. He discusses that this annexation splits parcels and is

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inconsistent with State policy which directs boundaries to conform with lines of assessment or ownership. As outlined in the staff report, he discusses information that staff believes is the rationale to support the Commission's override of State policy. He points out on the map that Snow Valley itself does not conform with the National Forest parcel lines and he says the annexation has been defined to include an area sufficient to extend the pipeline to Snow Valley and the entirety of Snow Valley itself. He says the boundaries have been defined to include only what is necessary for service to insure the preservation of the National Forest lands surrounding the area. He adds that as with the sphere proposal, the Forest Service and County Assessor have no objection to the boundaries splitting lines of assessment.

Mr. Tuerpe discusses the environmental review, stating that in 2004, the Agency certified the Final EIR for this project and adopted a Finding of Fact and Statement of Overriding Considerations. He says the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, has reviewed CLAWA's environmental documents, which were provided to the Commission at the February 15 hearing; determined they are adequate for the Commission's use as a CEQA responsible agency; and has presented a Candidate Findings of Fact and Statement of Overriding Considerations for adoption by the Commission. He says the necessary actions to be taken by the Commission are outlined in the staff report. Mr. Tuerpe reports that the Registrar of Voters has verified that the area is legally uninhabited and the County Assessor's Office has verified that the area possesses 100% landowner consent. He says no written opposition to a waiver of protest proceedings has been received from any subject agency and staff is recommending that, pursuant to Government Code Section 56663(c), the Commission waive further protest proceedings and direct the Executive Officer to complete the action.

Mr. Tuerpe discusses service issues, as outlined in the staff report and the Plan for Service and pre-annexation agreement between CLAWA and Snow Valley and he says the Plan and Agreement identify that: (1) this proposal is to provide Snow Valley with a resource for supplemental water for artificial snow-making purposes; (2) the water service would be made interruptible in the event the Agency requires the water for other uses and it is proposed to be delivered during the ski season when the Agency has the least demand; and (3) the water to be sold would be for snow-making purposes only and not for potable use. He says the Plan for Service indicates that the level of service anticipated can be provided by CLAWA.

Mr. Tuerpe discusses the construction and annexation costs, as well as the Agency's fees, standby charges, and taxes, which are outlined in the staff report. He says the Agency will charge Snow Valley the standard rates and charges for the purchase of water at wholesale cost and that no other interest within the annexation area will be charged for this service. He says the annexation area will be subject to the Agency's standby charge; that the current charge is assessed by parcel or possessory interest and is calculated as \$30 for the first acre and \$5 for each additional acre. He explains that pursuant to CLAWA's existing policies, parcels not connected to a water system do not pay the annual standby charge, but at the time that a water connection is provided, all deferred standby charges become due and payable. He says an annual tax, which is charged by the Agency for payment of its share of the State Water Project and was approved by voters in the Agency during the 1960's, will be extended to the annexation area and included on the annual tax bill for each parcel or possessory interest. He says the rate varies based on the annual cost billed to the Agency by the State Department of Water Resources and he reports that the 2005-06 rate is five cents per \$100 of assessed value.

As outlined in the staff report, Mr. Tuerpe points out on the map displayed on the overhead three parcels in the annexation area which have possessory interests, noting that for the parcels in this annexation area the total assessed value of the possessory interests is approximately \$8.6 million with an assessed land value of about \$2.8 million. Excluding Snow Valley, the assessed land value is about \$54,000. He says that based on the total assessed value, the possessory interests' estimated annual special tax to pay for the Agency's share of the State Water Project will be approximately \$4,300. He says that the possessory interests received notification of this proposal through LAFCO's distribution of the staff report for this annexation. He reports that one letter of opposition from one of the possessory interests, Robert Best, owner of parcel 327-051-01, north of Highway 18, has been received and presented to the Commission this morning. He says that Mr. Best's letter states no objection to the proposed pipeline for snowmaking for Snow Valley but he is opposed to the inclusion of his cabin north of Highway 18 since he

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would have to pay an annual assessment but would receive no service. Mr. Tuerpe says that this concern has been discussed by the staffs of CLAWA and LAFCO and he says that a modification to the boundaries of this proposal to exclude the areas north of Highway 18 for parcels 327-051-01 and 326-251-02, encompassing about 53 acres, is being recommended. He says that this modification still accomplishes the goals of the project to extend the pipeline to Snow Valley and all interested parties concur to this modification. He notes that a letter has been presented this morning from the Forest Service, as the landowner, indicating it has no objection to this modification.

Mr. Tuerpe states that staff recommends approval of LAFCO 2988 for those reasons outlined in the staff report. He says the staff recommendation is listed on pages one and two of the staff report and includes that the Commission: (1) take the actions listed related to environmental review; (2) approve LAFCO 2988 as modified, with the standard conditions of approval; (3) waive protest proceedings, as permitted by Government Code Section 56663(c), with 100% landowner consent and no opposition by subject agencies; and (4) adopt LAFCO Resolution No. 2911 setting forth the Commission's findings, determinations and conditions of approval.

Commissioner Pearson says they should acknowledge the fact that two massive semi-island areas are being created on the north and south side, splitting the whole area in half that was just part of the sphere. He says it seems that there is no other way around this but it is something that the Commission has been opposed to doing in the past in other areas of the County. Mr. Tuerpe responds that Snow Valley cannot receive the water for its non-potable use without annexation. He says no one else will be using this water and the Forest Service, as the landowner, has consented to annexation.

Chairman Biane opens the hearing and calls on those wishing to speak.

Bob Best, a resident of Grand Terrace and owner of one of the cabins north of Highway 18, says there are ten cabins in this area commonly known as the Forest Service Snow Valley Tract. Mr. Best says the total value of these very modest, old weekend cabins is about \$350,000. He says that as lessees of the Forest Service they have little or no stake in the fact that they are not landowners. He says most of the cabins have recently installed a water tank of some sort and that half of the cabins have water provided by a water hauler. He says his cabin has been recently remodeled and they installed a 3,200 gallon tank which they will probably fill about twice a year. He says that, as noted in the staff report, most of the water going to the Ski Resort will not be available to any of the cabin owners and he says it is very unfair that they are being asked to pay an assessment when they will not receive any benefit. Mr. Best encourages the Commission to approve the staff recommendation to modify the annexation boundary to exclude the area north of Highway 18. Chairman Biane says he believes that Mr. Best is right and that staff also recognized that and has recommended the modification.

Peter Jorris, on behalf of the Deep Creek Open Space Coalition, states they have no problem with CLAWA extending its service to the Snow Valley area. He says the design of the pipeline has been controversial and that the Agency's Board looked at an Alternative 2 and also recognized that there were considerable problems in running a utility pipeline above ground through the Deep Creek water shed. He says one of their concerns is that the Forest Service has not conducted an environmental assessment for an above-ground pipeline and they feel that probably should be done before final approval. He says that Snow Valley has a well for which the Forest Service gave them a permit in 1992 for use as potable water; but Mr. Jorris says that at some point Snow Valley started using the well without authorization for snow-making purposes. He says Snow Valley has been allowed to temporarily use that well for snowmaking until the Environmental Impact Statement has been completed, but he says it has been about five years and no Environmental Impact Statement is forthcoming. He says annexation may be premature; that they are not opposed but would like to see issues of the pipeline, Deep Creek and the well resolved before "putting the cart before the horse". He says he is not sure whether any of those issues are under LAFCO's purview but he wanted to be sure the Commission was aware of them.

Cyndie Phelps, owner of one of the cabins in the annexation area, says they just received this agenda item a few days ago and this is the first time they have heard anything about this. She says it was advertised in the San Bernardino Sun, which she does not receive since she lives in Riverside, and she

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says the Forest Service has not brought them up to speed on this even happening. She says that one of her concerns has been addressed since she heard that the cabin owners will not have to pay the assessment. However, she says she does not know what annexation means and what impact it will have on the cabin owners. Chairman Biane explains to her that if the Commission approves the amended recommendation to exclude the property north of Highway 18, Mrs. Phelps will not be affected in any way. Mrs. Phelps says she was confused and thought they were still being annexed, but would not be included in paying the costs. Chairman Biane apologizes that she received the notice so late. He says the Forest Service has been part of this dialogue all along, but it was difficult to find out who its tenants were so notice could be provided.

It is noted that a Request to Speak in opposition to the staff recommendation has been submitted by Steven Farrell of the Sierra Club. Mr. Farrell was not available to speak due to a prior commitment, but his opposition is noted.

Chairman Biane calls for further testimony. There is none and he closes the hearing.

Commissioner Hansberger moves approval of staff recommendation as modified, seconded by Commissioner Colven.

Commissioner Hansberger comments that he, like Commissioner Pearson, is troubled by the geometry of this proposal on the map. He says the sphere for CLAWA is such that the ridgeline which separates the water basins is close to the south end of the sphere and he asks why just an arm is being annexed rather than the entire sphere area from the extension south. Mr. Tuerpe responds that the reasons for not annexing a larger area was to only annex what is necessary for the extension of the water service to Snow Valley and for the pipeline. Commissioner Hansberger says he understands that, but he says that one of LAFCO's objectives is not to create islands or peninsulas. Executive Officer Kathleen Rollings-McDonald adds that the application was limited in its area to only annex that area which would receive the water service or the pipeline and to exclude any of the National Forest which would have no need for a public water provider. She says that if not for the National Forest or areas they wanted to preserve for Deep Creek, there might have been a different approach for the boundary.

Chairman Biane comments that Mr. Jorris brought up the issue of how the pipeline will be installed. He says he thinks that is probably out of the Commission's purview. Ms. McDonald responds that the actual placement of the facilities is not under the Commission's purview; that it is under the purview of the U.S. Forest Service and CLAWA, who have been discussing this for quite some time. She says she cannot say why the Forest Service's Environmental Impact Statement has taken five years. She says that in order for CLAWA to facilitate the development of this pipeline, it needs to have this jurisdiction, but she says the actual designation of that location is a matter of consultation among all those agencies.

Commissioner Nuaimi says a comment was made by Mr. Jorris that there has not been environmental review to adequately address the location of the pipeline. He points out, however, that on Page 29 of the volumes of papers received by the Commission, it addresses the comment that the Deep Creek Open Space Coalition submitted, so that is incorporated into the Final EIR and has been studied. Regarding Mr. Jorris' comment about concern with Snow Valley's use of the water well to produce snow and that an EIR has not been prepared, Commissioner Nuaimi says that is a moot point because there is an EIR that mitigates their current concerns of an unanalyzed use.

Commissioner Colven discusses that he is amazed that this project has the consent of the Forest Service. He says this project will economically benefit that area and thanks Mr. Dodson for protecting the flora and fauna. He says that overcoming the Forest Service's potential objection in itself is a terrific thing and he is in favor of the project.

Chairman Biane calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

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WORKSHOP ITEM

LAFCO 2996 – REORGANIZATION TO INCLUDE FORMATION OF HELENDALE COMMUNITY SERVICES DISTRICT AND DISSOLUTION OF COUNTY SERVICE AREA 70 IMPROVEMENT ZONES B AND C – CONTINUE TO APRIL 19, 2006

LAFCO conducts a Workshop Session with the participation of the Helendale Community Services District (hereinafter "Helendale CSD") Task Force members and other interested parties for the Commission to provide direction to staff on the boundary to be utilized in the review process for the proposed formation of the Helendale CSD. Notice of this Workshop has been advertised as required by law through publication in The Sun and the Victor Valley Daily Press, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Chairman Biane states that he has concerns before they start because five of the Commission members need to be at another meeting in about 15 minutes. He asks whether they should start the Workshop or continue it to next month. Discussion follows as to how to proceed, since many people traveled a long way for this Workshop. Ms. McDonald says staff is requesting direction from the Commission on which boundary to use in the review process. She indicates that she will forego her presentation and just discuss one aerial so that the Commission will have an understanding about the area to be discussed. She says staff is recommending that the Commission look at the December modification of the proposed boundary and then move forward with the analysis of the proposal. A copy of the staff report is on file in the LAFCO office and is made a part of the record by reference herein.

Ms. McDonald shows an aerial display of the Helendale area and the boundary of the Helendale CSD as proposed by the Task Force in its December modification. She points out the southern area of the proposed boundary, noting that it is the continuing area of dispute and is opposed by the Cities of Adelanto and Victorville. Ms. McDonald says staff is asking whether the December modification is the boundary the Commission wishes to pursue.

Commissioner Hansberger comments that staff was told the Commission would like to have improved graphic presentations and he says staff has done a good job with this presentation.

Chairman Biane opens the public hearing and calls on those wishing to speak.

Barbara Howard, a resident of Helendale, states that she feels like a sacrificial lamb because the proposed Helendale CSD is sitting to her north, the Cities of Victorville and Adelanto are to the south, and she is in the middle. She says her property is located in the southwest quarter of Section 14, west of Helendale Road, and she is the only full-time resident there at this time. Mrs. Howard says she would like to continue to be included in the Helendale CSD. She says she has watched the two Cities to the south fight for years, although she says they now seem to be buddies; but she says those Cities have done nothing for the area; that commitments made during annexations have not been maintained; she does not want to be linked to them.

It is noted that Commissioner Hansberger leaves the hearing at 11:40 a.m.

Jon Roberts, City Manager of the City of Victorville and Executive Director of the Southern California Logistics Airport, says the City and the Airport are represented today by several officials and they are all prepared to provide testimony this morning. However, he reports that there have been several very productive meetings with the Task Force, one which occurred two weeks ago, and he says they remain optimistic they will all come to agreement on mutual acceptable boundaries and will continue with those efforts if this Workshop is continued. He says there are three speakers on behalf of the City and the Airport. Chairman Biane states they do not want to exclude anyone who wishes to speak but he asks that there be no redundant testimony for the sake of time. Mr. Roberts discusses the City's concern that there be long-term, appropriate planning of the property around the Airport to support redevelopment of the Airport. He says that George Air Force Base was closed in 1998, with devastating effects on the local

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community. He says there were some very contentious hearings with Adelanto, some of which were before the Commission; however, he says he is pleased to report that Victorville now enjoys an outstanding relationship with Adelanto. He discusses that the issues for Victorville and the Airport are job creation, with the rapid housing growth they are experiencing, and economic development. He says the Governor has pointed out that Southern California must be able to increase its capacity to import goods, both air cargos and through ports, and he says former Air Force Bases provide the only real opportunity to meet that need. Mr. Roberts says they support the Task Force in its efforts to form a CSD and have pledged support and will help with that effort. He reiterates their only concern is that the property surrounding the Airport be appropriately designated for uses to support Airport activity. He says he would characterize the several productive meetings held with the Task Force as positive. He reports that the initial concern with the layout of the original proposed boundary of 58 square miles was with 21 square miles located in an area considered to be very sensitive from a land use compatibility from Airport noise and in terms of land that is appropriately developed in relation to Airport activity. He says that after the first meeting, the Task Force modified the boundaries and Mr. Roberts says there are now just ten square miles remaining of concern for Victorville and the Airport. He says the latest proposal is 103 square miles and he says the City is requesting that ten square miles be deleted, leaving 93 square miles for the CSD. He also discusses the Palisades Ranch property, stating that while they think that property is not necessarily best planned to be part of the CSD, the City, so not to impede that development, is willing to work out that Palisades Ranch be included in the CSD. He says the Victorville City Council has unanimously opposed both the original proposed boundary of 58 square miles and the current proposed boundary of 103 square miles, but he says the Council pledged to continue to work with the Task Force to come up with boundaries the City considers appropriate. Mr. Roberts says they remain encouraged and optimistic that they will reach mutually acceptable lines.

Commissioner Biane apologizes to those who have traveled far for this hearing but he says he and others who sit on Sanbag must leave and they will lose a quorum. He says it sounds like the discussions will continue and he asks that this be made the first item for the April hearing so that all those who come back are guaranteed to be heard. He says he would like to continue this if there are no objections.

Commissioner Cox asks if he is suggesting that the parties go back and continue their dialogue with the Executive Officer in working out those boundary lines so that, hopefully, in April they will have come to an amicable boundary. Chairman Biane says that would be nice, but he says if they have not worked out a boundary, the Commission will make a decision at the April hearing. Commissioner Nuaimi says he would like to hear from any residents or someone from the Task Force—in the event they are not able to come back next month. He says he assumes that all the consultants, elective officials, lawyers, and paid staff will be present next month.

Tristan Pelayes says he wears a bunch of those hats as the Counsel for the Task Force, President of the Silver Lakes Association, and a resident of Silver Lakes. Mr. Pelayes says Mr. Roberts mentioned that the City of Victorville has the greatest working relationship it has ever enjoyed with the City of Adelanto. He says that he also happens to be a past mayor of Adelanto and the one that extended the olive branch to Victorville and he says he intends to do the same thing on behalf of Helendale as well. He says the Task Force does not want to conflict with the Cities of Adelanto or Victorville or the development of the Airport. He says the Task Force will be back in April but he says that as the President of Silver Lakes, they have no problems in negotiating the ten square miles referred to by Mr. Roberts, provided that it leaves the proposed CSD with the ability to control certain roads, such as Highway 395 and Shadow Mountain Road. He says those roads will be critical given the expansion in population in the community of Silver Lakes.

At 11:55 a.m. Chairman Biane announces that he and several other Commissioners must now leave and he adjourns the Commission due to a lack of a quorum. The remaining items will be continued to the April 19 hearing.

ATTEST:

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DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

PAUL BIANE, Chairman